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Indigenous Water Justice Symposium (June 6)

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AGENDA: Indigenous Water Justice Symposium

University of Colorado Boulder. Getches-Wilkinson Center for Natural Resources, Energy, and the Environment

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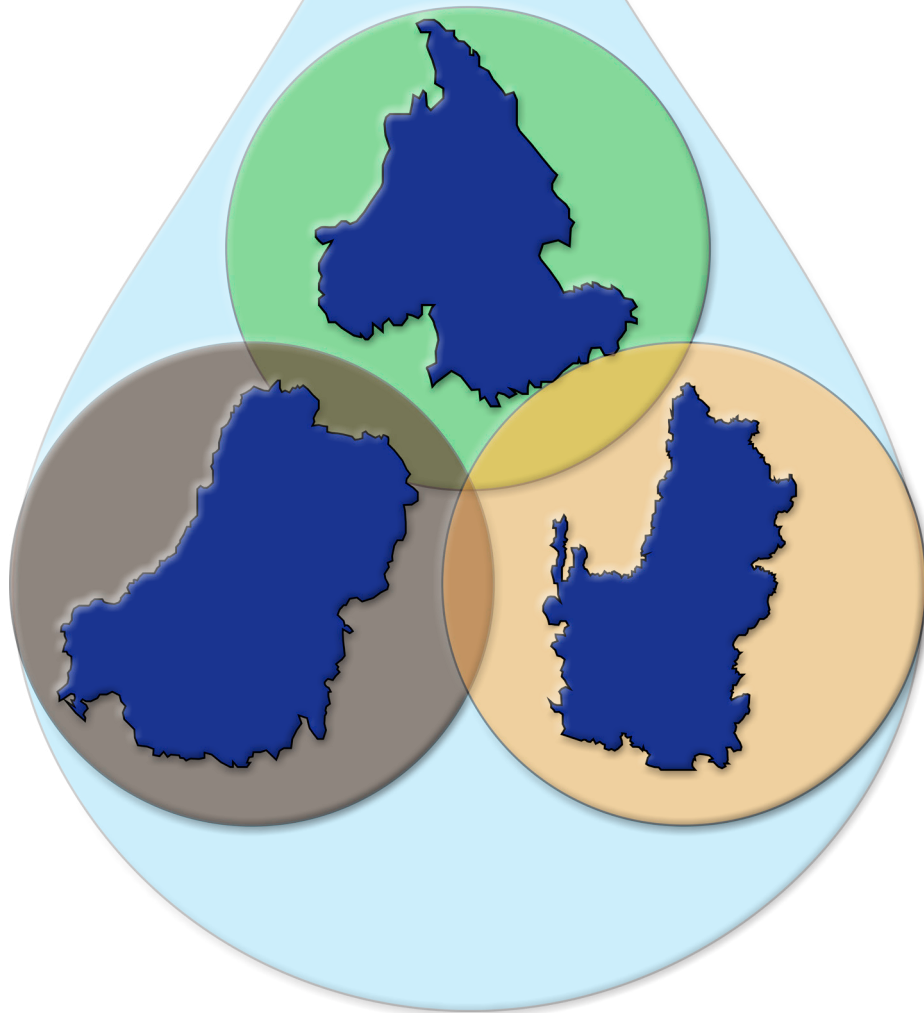
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Indigenous Water Justice Symposium



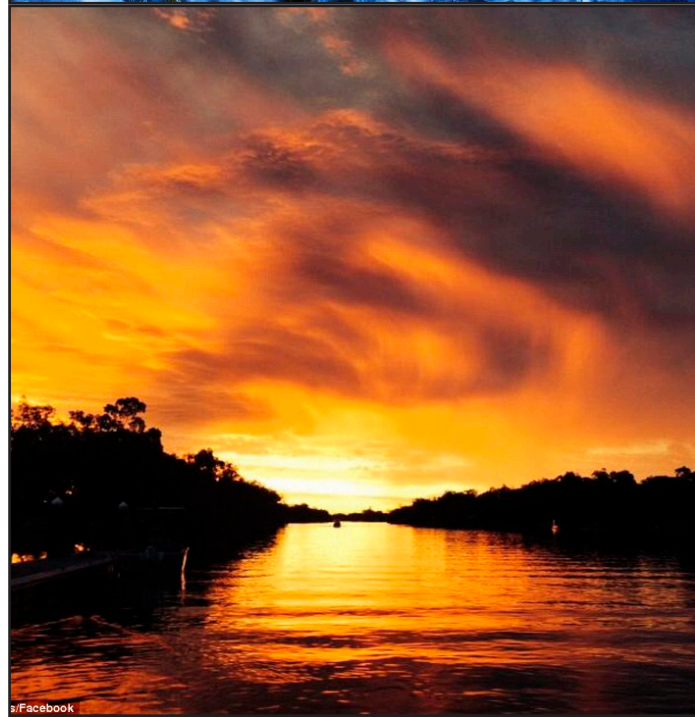
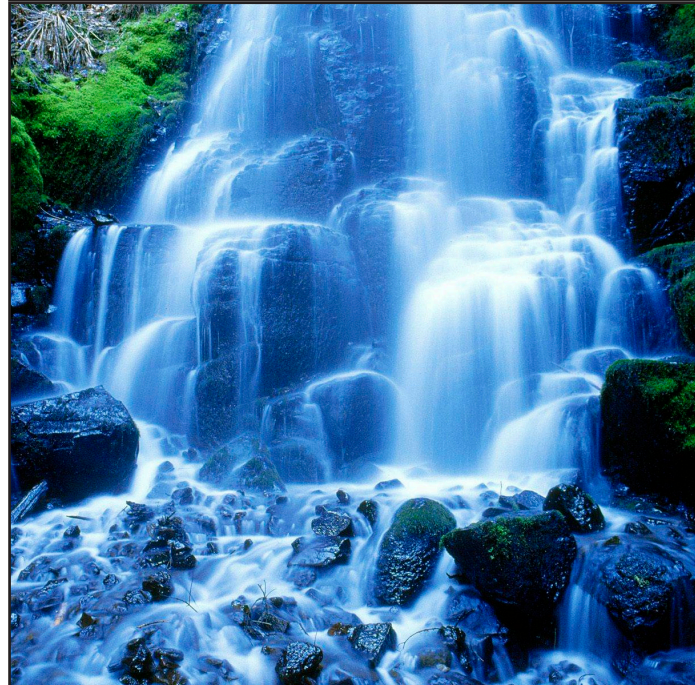
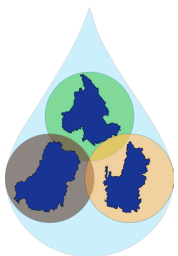
June 6, 2016

*Hosted by the University of Colorado Law School
Boulder, Colorado*

I. INTRODUCTION

Indigenous peoples throughout the world face diverse and often formidable challenges of what might be termed “water justice.” On one hand, these challenges involve issues of distributional justice that concern Indigenous communities’ relative abilities to access and use water for self-determined purposes. On the other hand, issues of procedural justice are frequently associated with water allocation and management, encompassing fundamental matters like representation within governance entities and participation in decision-making processes. Yet another realm of water justice in which disputes are commonplace relates to the persistence of, and respect afforded to, Indigenous communities’ cultural traditions and values surrounding water—more specifically, the degree of recognition and solicitude given them in distributional rules, governance entities, decision-making processes, etc. These three dimensions of water justice find support in numerous domestic and international sources, including the United Nations Declaration on the Rights of Indigenous Peoples.

Hosted by the University of Colorado Law School on Monday, June 6 in Boulder, Colorado, the Indigenous Water Justice (IWJ) Symposium has been convened to address water justice-related challenges facing Australian Aboriginal communities within the Murray-Darling Basin, Canadian First Nations within the Columbia River Basin, and Native American Tribes within the Colorado and Columbia River Basins. The symposium will consist of three basin panels followed by an end-of-day synthesis panel. It will be bookended by a keynote address from Professor Charles Wilkinson during the morning, and a dinner reception hosted by the Native American Rights Fund. The symposium is an invitation-only event envisioned as an incubator for future actions and collaborations. The roughly 45 participants hail from nearly 20 Indigenous communities and organizations and faculties of approximately 15 academic institutions in Australia, Canada, Europe, and the United States, as well as governmental agencies and non-governmental organizations. Our core purpose is to foster dialogue and relationships aimed at promoting legal and policy reforms to achieve positive social change.



II. SYMPOSIUM SCHEDULE / PANELISTS & MODERATORS

* All symposium sessions will take place in Room 307 of the Wolf Law Building.

8:00-8:40 a.m.

Invocation, Introduction & Keynote Address

- Invocation: James Trosper (*Eastern Shoshone Tribe, Northern Arapaho Tribe, University of Wyoming High Plains American Indian Research Institute*)
—Introduction by Judith Antell (*Minnesota Chippewa Tribe, White Earth Reservation, University of Wyoming High Plains American Indian Research Institute*)
- Symposium Introduction: Jason Robison (*University of Wyoming*)
- Keynote Address: Charles Wilkinson (*University of Colorado*)
—Introduction by Deb Donahue (*University of Wyoming*)

8:40-10:40 a.m.

Colorado River Basin Session

- Moderator: Daniel McCool (*University of Utah*)
- Panelists:
 - Daniel Cordalis (*Navajo Tribe, Earthjustice*)
 - Forrest Cuch (*Northern Ute Tribe*)
 - Howard Dennis (*Hopi Tribe*)
 - Nora McDowell (*Fort Mojave Indian Tribe*)
 - Daryl Vigil (*Jicarilla Apache Tribe, Ten Tribes Partnership*)
 - John Weisheit (*Living Rivers*)

10:40-11:00 a.m.

Break

11:00 a.m.-Noon

Columbia River Basin Session

- Moderator: Amy Cordalis (*Yurok Tribe, Yurok Office of Tribal Attorney*)
- Panelists:
 - Paul Lumley (*Yakama Tribe, Columbia River Intertribal Fishing Commission*)
 - D.R. Michel (*Conf. Tribes of Colville Reservation, Upper Columbia United Tribes*)
 - Jeanette Wolfley (*Shoshone-Bannock Tribes, University of New Mexico*)
 - Kelsey Leonard (*Shinnecock Indian Nation, McMaster University*)
 - Barbara Cosens (*University of Idaho*)

Noon-1:00 p.m.

Lunch (*provided by Getches-Wilkinson Center*)

1:00-2:00 p.m.

Columbia River Basin Session, cont.

2:00-2:15 p.m.

Break

2:15-4:15 p.m.

Murray-Darling Basin Session

- Moderator: Tony McLeod (*Murray-Darling Basin Authority*)
- Panelists:
 - Fred Hooper (*Murrawarri Nation, Northern Aboriginal Nations*)
 - Rene Woods (*Nari Nari Nation, Murray-Lower Darling Rivers Indigenous Nations*)
 - Phil Duncan (*Gomerioi Nation, New South Wales Aboriginal Land Council*)
 - Sue Jackson (*Griffith/Melbourne Universities*)
 - Katie O'Bryan (*Monash University*)
 - Poh-Ling Tan (*Griffith University*)

4:15-4:30 p.m.

Break

4:30-5:45 p.m.

Synthesis Session

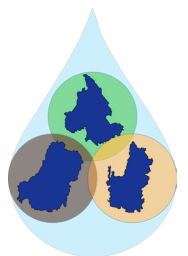
- Facilitator: Jason Robison (*University of Wyoming*)

—Note: Framed by the symposium's "water justice" theme, this session will consist of open dialogue among all participants regarding common challenges and potential solutions across the three basins as well as future actions and collaborations.

6:30-8:30 p.m.

Native American Rights Fund Dinner Reception

—Note: The Native American Rights Fund (NARF) will host this reception in its Boulder office (1506 Broadway). Native American cuisine will be served from Tocabe: An American Indian Eatery. The NARF office is within walking distance from CU Law School (1.2 miles, 1.9 km.), but a shuttle will also be available.



III. ADDITIONAL SYMPOSIUM PARTICIPANTS

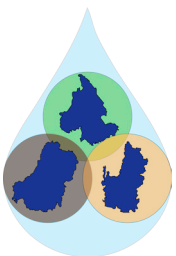
In addition to the panelists, moderators, and other individuals identified in the previous section, the following participants will be in attendance to engage in open dialogue during the basin sessions and end-of-day synthesis session:

- Autumn Bernhardt (*Non-Citizen Oglala Lakota Nation, Colorado State University*)
- Anne Castle (*University of Colorado, previously U.S. Department of Interior*)
- Daniel Connell (*Australian National University*)
- Lucia De Stefano (*Complutense University of Madrid*)
- John Echohawk (*Pawnee Tribe, Native American Rights Fund*)
- Torivio Fodder (*Taos Pueblo Tribe, Univ. of Wyo. High Plains American Indian Research Institute*)
- Dustin Garrick (*Oxford University*)
- Burke Griggs (*Washburn University*)
- David Harrison (*Moses, Wittemyer, Harrison & Woodruff, P.C.*)
- Ramsey Kropf (*U.S. Department of Interior, previously Special Master Big Horn General Stream Adjudication*)
- Jackie Luethi (*Murray-Darling Basin Authority*)
- Larry MacDonnell (*University of Colorado*)
- John Sirois (*Confederated Tribes of Colville Reservation, Upper Columbia United Tribes*)
- Mark Squillace (*University of Colorado*)
- Dan Tarlock (*Chicago-Kent College of Law*)
- Marilyn Tewa (*Hopi Tribe*)
- John Thorson (*Federal Water Master, Lummi Decree*)
- Richard Trudell (*Santee Sioux Tribe, American Indian Resources Institute*)
- Season Martin (*The Nature Conservancy*)

IV. GWC CONFERENCE & INTERIM SESSIONS

Moving forward from the symposium, three related IWJ events will be held at CU Law School and NARF's Boulder office during the remainder of the week. All events will be free and open to all interested in participating.

- **NARF Interim Session: Tuesday, June 7, 10:00 a.m.-Noon, NARF Boulder Office.** This session will provide attendees with an opportunity to learn firsthand from NARF attorneys about water and other natural resources matters on which they are advocating on behalf of Native American tribes. (NARF link: <http://www.narf.org/>)
- **Waterkeeper Alliance Session: Wednesday, June 8, 10:00 a.m.-Noon, CU Law School, Room 300.** The international Waterkeeper Alliance will be hosting its annual conference in Salt Lake City, Utah next spring 2017, and this conference is envisioned as a follow-up event to the IWJ Symposium. This session will involve open discussion about Native American tribal participation in the conference, and provide information about the Waterkeeper Alliance and its Waterkeepers network. Similar spin-off conferences, symposia, and other events also may be discussed. (Waterkeeper Alliance link: <http://waterkeeper.org/>).
- **Water Scarcity Conference: Thursday and Friday, June 9-10, CU Law School.** An undertaking of truly global proportions, the Getches-Wilkinson Center's 2016 Martz Summer Conference is entitled "Coping with Water Scarcity in River Basins Worldwide: Lessons Learned from Shared Experiences." An IWJ session has been included within the conference agenda on Thursday, June 9, from 3:15-5:00 p.m. This session will begin with a half-hour IWJ Symposium synthesis panel, and then devote the remaining time to an Indigenous Voices panel on which Indigenous symposium participants will address the audience firsthand about water justice issues facing their respective communities. Again, conference registration is free for IWJ Symposium attendees (select CU Faculty/Staff category). (Conference link: <http://www.colorado.edu/law/research/gwc/events>).



V. SELECT BIOS: KEYNOTE SPEAKER, MODERATORS & PANELISTS

Barbara Cosens

Barbara is a Professor with the University of Idaho College of Law and the Waters of the West Graduate Program, which includes options for concurrent J.D./M.S. and J.D./Ph.D. degrees. She teaches Water Law, Water Policy, Law Science and the Environment, and leads a team taught graduate course in Interdisciplinary Methods in Water Resources. Barbara is a co-PI on the UI Water Resources IGERT on “Adaptation to change in water resources: science to inform decision-making across disciplines, cultures and scales.” She is a collaborator with the Utton Center and Earth Data Analysis Center at the University of New Mexico and the American Indian Law Center on development of the Native American Water Right Settlement Electronic Repository, and she has served as a negotiator and mediator of Native American Water Right settlements. Barbara is a member of the Universities Consortium on Columbia River Governance and has worked with Nigel Bankes, University of Calgary Faculty of Law, on two projects funded by the Program on Water Issues at the Munk School of Global Affairs: one on mechanisms for flexibility and adaptability in international water agreements, and the other on U.S. and Canada domestic law in international law. She is co-chair of a project made possible through support from the NSF funded National Socio-Environmental Synthesis Center, SESYNC: Adaptive Governance in Regional Water Systems to Manage Resilience in an era of Changing Climate. She spent spring 2015 as the Goyder Institute Visiting Professor in Public Sector Policy and Management at Flinders University researching adaptive water governance and water law in South Australia and the Lake Eyre Basin. From fall of 2016 through spring of 2018, Barbara will serve as the Associate Dean of Faculty Affairs at the University of Idaho Law School and the Interim Director of the UI Pacific Northwest WATER Institute.

Forrest S. Cuch

Forrest is an enrolled member of the Ute Indian Tribe. He was born in 1951 and raised on the Uintah and Ouray Ute Indian Reservation in northeastern Utah. In 1973, he graduated from Westminster College with a Bachelor of Arts Degree in the Behavioral Sciences. During his 38-year career, Forrest has held many challenging jobs, beginning as education director for the Ute Indian Tribe. He has also served as tribal planner/administrator for an eastern tribe and social studies department head and teacher for his alma mater, Wasatch Academy, Mt. Pleasant, Utah. Forrest was executive director of the Utah Division of Indian Affairs. During this time, he published *A History of Utah's American Indians* (Utah State University Press 2000). He has served on numerous boards, including as a trustee representing American Indians on the Salt Lake Organizing Committee for the 2002 Winter Olympic Games; trustee for Swaner Preserve; and Salt Lake City based Pax Natura. Forrest played a key role in the PBS/KUED sponsored curriculum project entitled “We Shall Remain,” which features a video series of the histories of the Utah tribes with accompanying materials. In 2012, he served as CEO for the Ute Tribe’s business enterprises. Forrest is Co-Founder of Rising American Indian Nations (RAIN), an Indian operated non-profit organization established to empower American Indian people. Throughout his career, he has worked to call attention to the ancient presence of American Indian people in the intermountain west, and he has worked with other American Indian leaders in and out of state to address many critical issues facing all American Indians. He currently is engaged in working with spiritual leaders through the Western Hemisphere to usher in the new shift in feminine conscious known as the New Earth and calling attention to Climate Change and Harm to Mother Earth.

Phil Duncan

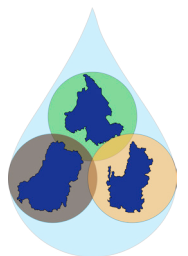
Phil is a member of the Gomeroi Nation from Moree, New South Wales (NSW) Australia. His homelands are Moree and Terry Hie Hie. Phil has over 37 years of experience working with Aboriginal people and government to improve the lives of his people through recognition of our rich cultural history, the return of our lands, the improvement of our living conditions, and the education of our next generation, both through his employment and volunteer community work. Phil provides high level policy and strategic advice to the NSW Aboriginal Land Council Board and Executive, as well as external key stakeholder groups, including key Government agencies. This strategic advice regards issues of cultural and heritage significance, community engagement in on-the-ground projects, and the design, delivery, and implementation of programs in partnership with government addressing a wide range of issues, particularly natural resource management and water rights and allocations.

Sue Jackson

Sue is an Associate Professor at the Australian Rivers Institute at Griffith University in Queensland. She is a geographer with over 20 years’ experience researching the social dimensions of natural resource management in Australia, particularly those issues relating to the rights and interests of Indigenous communities. She has a strong research interest in systems of water resource governance, including customary Indigenous resource rights and values, and methods for addressing Indigenous values in environmental flow assessments and water allocation planning. Sue is currently a member of the Research Executive of the TRaCK (Tropical Rivers and Coastal Knowledge) Research Hub, and a research participant in the Northern Australian Environmental Resources Hub: an initiative focused on supporting sustainable development in northern Australia, funded by the Australian Government’s National Environmental Science Program. In 2014, Sue was awarded a prestigious Australian Research Council Future Fellowship to conduct research in the Murray Darling Basin.

Kelsey Leonard

Kelsey is a PhD student in Comparative Public Policy in the Department of Political Science at McMaster University where she focuses on Indigenous water security and its climatic, territorial, and governance underpinnings. She is McMaster University’s Philomathia Trillium Scholar in Water Policy and currently works as a Research Assistant for the Water Economics, Policy and Governance Network (WEPGN). Kelsey has previously worked for the National Congress of American Indians (NCAI) as a legislative associate on tribal climate change adaptation. She holds an A.B. in Sociology and Anthropology from Harvard University, an MSc in Water Science, Policy and Management from the University of Oxford, and a J.D. from Duquesne University. Kelsey is an enrolled citizen of the Shinnecock Indian Nation.



Paul Lumley

Paul is the Executive Director for the Columbia River Inter-Tribal Fish Commission (CRITFC) and a citizen of the Yakama Nation, which is located in central Washington State. Mr. Lumley worked at CRITFC from 1987-2004 under several capacities. He returned to CRITFC after 5 years in Washington DC to begin his tenure as executive director on July 1, 2009. Mr. Lumley has an extensive history working with Northwest Tribes on salmon issues, particularly in the Columbia River Basin. Paul Lumley received his Bachelor of Science degree in Mathematics from Western Washington University in 1986.

Daniel McCool

Professor McCool's research focuses on water resources, Indian voting and water rights, and public lands policy. His recent books include *River Republic: The Fall and Rise of America's Rivers* (Columbia University Press 2012); *The Most Fundamental Right: Contrasting Perspectives on the Voting Rights Act* (Indiana University Press 2012, edited); *Native Vote: American Indians, the Voting Rights Act, and Indian Voting* (Cambridge University Press 2007, co-authored); and *Native Waters: Contemporary Indian Water Settlements and the Second Treaty Era* (University of Arizona Press 2002). He has served as an expert witness in seven Voting Rights Act cases.

Nora McDowell

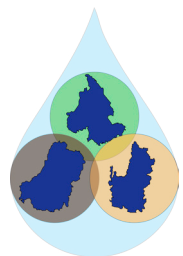
An enrolled member of the Fort Mojave Indian Tribe, Nora McDowell was born and raised on the Fort Mojave Indian reservation located in Needles, CA. Ms. McDowell has committed over 38 years to tribal government, starting her career as a clerk for the Manpower program in 1975, and subsequently working her way up to Tribal Council Secretary in 1980. Her interest in tribal politics began with her first tribal council campaign and election in 1981, when she began her first four-year term. She is proud to have served the Council and the Fort Mojave Tribal community for over 38 years. As Fort Mojave Tribal Council Chairperson, Ms. McDowell's leadership has been instrumental in forging many economic projects for the tribe. Ms. McDowell felt it necessary for the tribe to achieve total tribal self-sufficiency and to exercise its sovereign rights. Her belief and that of the standing council was that it was incumbent on the tribal government to take over all of its operations and infrastructure services on the reservation. Thus began a long process of numerous legal workings and administrative duties to accomplish that goal. The tribe currently provides all utility services on the reservation in three states: California, Arizona, and Nevada. The Fort Mojave Indian Tribe maintains one of only eight tribally owned and operated telecommunications companies in the United States. Ms. McDowell has been recognized by many Native American organizations for her leadership, and service as President and Board Member of such organizations as the Inter-Tribal Council of Arizona, Arizona Indian Gaming Association, Fort Mojave Telecommunications, National Tribal Telecommunications Association, National Congress of American Indians, 10 Tribes Partnership of the Lower Colorado River, Fort Mojave Tribal Utilities Authority, Council of Energy Resources, Native American Rights Fund, and Founding Member of the WEWIN organization "Women Empowering Women for Indian Nations." Currently, Ms. McDowell serves as Project Manager within the AhaMakav Cultural Society department and oversees a hazardous waste cleanup located at the Pacific Gas & Electric Topock Compressor Station, which is within a known Mojave sacred site area and traditional homeland of the Fort Mojave Indian Tribe. Nora is the proud mother of 3 children and Grandmother to 10 grandchildren. Nora resides on the Fort Mojave Indian Reservation, which is located in the states of California, Arizona, and Nevada.

Tony McLeod

Dr. Tony McLeod is the General Manager of the Water Management Branch at the Murray-Darling Basin Authority (MDBA) in Canberra, Australia. Prior to joining the MDBA in 2008, he was involved in the development of the Australian Federal Water Act 2007 with the Australian Government Department of the Environment. From 1998 to 2006, he worked for the Murray-Darling Basin Commission, including on The Living Murray, river operations, and on the cap on diversions. He has also worked with the New South Wales Government, and in 1993 he completed a PhD in water resource management at the University of Melbourne. In 2014, he spent 4 months based at the Getches-Wilkinson Centre for Natural Resources, Energy and the Environment at the University of Colorado, Boulder on a Fulbright Fellowship researching water management issues in the western United States with particular reference to comparisons with the Murray-Darling Basin.

D.R. Michel

D.R. Michel has been the Executive Director for the Upper Columbia United Tribes (UCUT) for eight years. He is a member of the Confederated Tribes of the Colville Reservation, and served eight years on the Tribal Business Council, and as Chairman of the Natural Resources Committee. His background is primarily in forestry – including many years managing forest fire suppression. The Upper Columbia United Tribes is a coalition of five Tribes: the Coeur d'Alene Tribe, the Colville Confederated Tribes, the Kalispel Tribe, the Kootenai Tribe of Idaho, and the Spokane Tribe of Indians. As Executive Director, D.R. applies his broad experience and knowledge to advise on policy matters and decisions for the protection, preservation, and enhancement of Tribal Rights, Sovereignty, Culture, Fish, Water, Wildlife, Habitat, and other interests of common concern for the benefit of all people in the Columbia River Basin. He provides justification and validation on myriad issues – including forestry, water quality and water supply, cultural and natural resources, river and reservoir management, developing and maintaining regional partnerships, and administrative functions. D.R. served as the Sovereign Review Team delegate for the UCUT on the 2014/2024 Columbia River Treaty Review, and is an active and effective member of the Coalition of Columbia Basin Tribes.

**Katie O'Bryan**

Dr Katie O'Bryan is a lecturer in the law faculty at Monash University in Melbourne, Australia. Prior to entering academia, she worked for over a decade as a lawyer for native title claimants in both Western Australia and Victoria. Katie's PhD dissertation investigated the legal recognition of Indigenous rights to participate in the management of water resources, which involved a comparative analysis of Victoria (Australia) with Aotearoa-New Zealand. She also holds a Master of Laws in Environmental Law from Macquarie University, focusing on issues relating to Indigenous natural resource management.

Poh-Ling Tan

Poh-Ling Tan is the International Water Centre's Professor for Water Law and Governance at Griffith University in Queensland, Australia. A background in legal practice has provided a problem-solving approach to her teaching and research. For over 20 years, her research has focused on water reform and governance, particularly at the intersections of law, social, and biophysical sciences. She collaborates with multi-disciplinary teams of researchers and has significant experience working with Traditional Owners, water agencies, stakeholders, and general communities in different Australian contexts. She serves on the OECD Water Governance Initiative, Queensland's Water Expert Panel that provides advice in relation to leadership and innovation across the water supply chain, and advises the boards of the Australasian Journal of Natural Resources Law and Policy, and the Journal of Water Law.

John Weisheit

John was raised in California and Arizona by parents who love the Colorado River and its tributaries. In 1980, he made a career decision to become a professional river guide and moved to Moab, Utah in 1988. John married Susette DeCoster (from Colorado) in 1990, who is also a river guide. In 2000, John co-founded a non-profit organization called Living Rivers, and in 2002 his application to become the Colorado Riverkeeper was approved by the international Waterkeeper Alliance. The mission statement is: "Living Rivers & Colorado Riverkeeper promote river restoration through mobilization. By articulating conservation and alternative management strategies to the public, we seek to revive the natural habitat and spirit of rivers by undoing the extensive damage done by dams, diversions and pollution on the Colorado Plateau." In 2004, John co-wrote a book published by University of Utah Press called *Cataract Canyon: A Human and Environmental History of the Rivers*. The authors used repeat photography to enhance a narrative about the physical and biological changes that have occurred in the Canyonlands sub-province of the Colorado Plateau since the 1871 expedition of John Wesley Powell.

Jeanette Wolfley

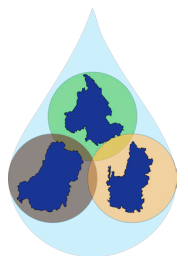
Jeanette Wolfley is an enrolled member of the Shoshone-Bannock Tribes of the Fort Hall Reservation, located in southeastern Idaho. Ms. Wolfley has practiced federal Indian law for over 30 years representing exclusively tribes and tribal entities on a wide variety of topics, including cultural and natural resources protection, water rights, and environmental law. She served as General Counsel for her tribes and continues to serve as Special Counsel on assigned legal matters. One of the matters she works on is implementation of the Fort Hall Indian Water Rights Settlement Agreement finalized in 1990, and approved by the Snake River Basin Adjudication court in 2006. Ms. Wolfley is an Assistant Professor at the University of New Mexico School of Law, joining the law school at Albuquerque, New Mexico in 2013.

Rene Woods

Rene is a proud Nari Nari man from south west New South Wales (NSW). He has had a long involvement in water for Aboriginal people within NSW, and now as Deputy Chair of Murray Lower Darling Rivers Indigenous Nations (MLDRIN) for Aboriginal people within the Murray Darling Basin Area and nationally with the National Cultural Flows Research Committee. Within Rene's own Nation Group, Nari Nari, he is a leader, working with his elders to make sure their views are incorporated into the new regime of Water Planning within the states and Basin. Rene was an integral member of the Nari Nari Tribal Council, which was successful in securing Land and Water entitlements for his Nation with the Indigenous Land Corporation purchasing property within his Nation Boundaries, with the property's becoming Indigenous Protected Areas, and with Nari Nari people working and caring on country.

Charles Wilkinson

Charles Wilkinson is the Moses Lasky Professor of Law at the University of Colorado. He has been named Distinguished Professor, one of just 25 on the University of Colorado-Boulder campus. After graduating from Stanford Law School and practicing with Phoenix and San Francisco firms, Wilkinson joined the Native American Rights Fund in 1971 as a staff attorney. Since 1975, he has taught at the Oregon and Colorado law schools, receiving many teaching and research awards. His 14 books include the standard law casebooks on Indian Law and Federal Public Land Law; *Crossing the Next Meridian: Land, Water, and the Future of the West* (1992); *Fire on the Plateau: Conquest and Endurance in the American Southwest* (1999); *Blood Struggle: The Rise of Modern Indian Nations* (2005); and *The People Are Dancing Again: The History of the Siletz Tribe of Western Oregon* (2010). Wilkinson has regularly been called in for special assignments by federal agencies, tribes, and state governments. In 2013, the Museum at Warm Springs presented him with its Twanat Award for his "tireless work on behalf of Native Americans." The Grand Canyon Trust honored him with its 2014 John Wesley Powell Award for his "extraordinary vision, passion, and commitment to the Colorado Plateau." In 2016, he received the 2016 Lawrence R. Baca Lifetime Achievement Award from the Indian Law Section of the Federal Bar Association.



VI. SYMPOSIUM SPONSORS

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Griffith University Australian Rivers Institute
American Indian Resources Institute

